In the High Court of Punjab and Haryana, Chandigarh

C.W.P. No. 7551 of 2003 (O&M)

Date of Decision: 07.12.2006

H.R.Goel

…Petitioner

Versus

State of Haryana and others

…Respondents

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR

HON'BLE MR. JUSTICE M.M.S. BEDI

PRESENT: Mr. Dharmender Singh Rawat, Advocate,
for the petitioner.

Mr. Hawa Singh Hooda, Advocate General, Haryana,
with Mr. Harish Rathee, Sr. DAG, Haryana,
for the respondents.

JUDGMENT

M.M. KUMAR, J. (Oral)

The claim of the petitioner in the instant petition is that the notification dated 6.11.2002 (P-5) be quashed to the extent it stipulate that the relevant period in the case of promotees has to be reckoned from the date of his first entry into service as the same violates the judgment of this Court in the case of **Suraj Bhan v. State of Haryana** (C.W.P. No. 45 of 1999, decided on 21.9.2000). It has further been prayed that direction be issued to the respondents to

grant the petitioner first ACP scale of Rs. 10000-13900 with effect from 1.1.1996 by taking into consideration five years of his regular satisfactory service with all consequential benefits without taking into account the fact that the petitioner is a promotee and junior to his direct recruit colleagues. It is un-disputed that the petitioner was appointed as Sub Divisional Engineer on 1.1.1988 in the pay scale of Rs. 8000-13500 whereas persons junior to him like Rajiv Yadav, Ram Avtar Hooda, Arun Jagga and Jaipal Singh, who were direct recruits and were junior to him were granted the pay scale of Rs. 10000-13900. The controversy raised in this petition is claimed to be covered by the judgment of Hon'ble the Supreme Court in the case of **Commissioner and Secretary to Government of Haryana v. Ram Sarup Ganda**, (Special Leave to Appeal (Civil) No. 20264 of 2004, decided on 2.8.2006). The aforementioned judgment is sought to be implemented by the respondent State and instructions dated 23.11.2006 in that regard have also been issued. A copy of the instructions dated 23.11.2006 is taken on record as Mark-A. A perusal of the judgment shows that Rule 9 of the ACP Rules, 1998, has been interpreted by Hon'ble the Supreme Court in the aforementioned judgment and it has been concluded that the respondent State is under obligation to revise the pay scale of persons like the petitioner by bringing their salary at par with their juniors in the same cadre/post. It has further been directed that revised orders are to be passed within a period of two months from the receipt of copy of the order by the respondent Government and the respondent

has been restrained from making recovery in case any employee is found to have been paid excess amount. If any employee become entitled to get any amount by way of pay revision then the said amount is required to be paid to him within a period of six months from the date of receipt of copy of the order of the Supreme Court by the respondents.

It is, thus, clear that the matter is not res integra and is concluded. Even the State Government has issued instructions on 23.11.2006 directing all the Head of Departments to revise the pay scale of person like the petitioner by stepping up the same at par with his/her junior. Therefore, the writ petition deserves to be allowed and the needful shall be done in accordance with the time schedule given by Hon'ble the Supreme Court.

The writ petition is disposed of in the above terms.

(M.M. KUMAR)
JUDGE

(M.M.S. BEDI)

December 7, 2006
JUDGE
Pkapoor